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Paper No. 6

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AUG 3 1995

**OFFICE OF PETITIONS
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In re Application of
Arnold W. Fogel, et al.
Serial No. 08/154,562
Filed: November 19, 1993
Attorney Docket No. 90038B

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 1995, to revive the above-identified application.

This application became abandoned for failure to respond in a timely manner to the non-final Office action of April 6, 1994 which set a shortened statutory period for response of three months. Therefore, the application became abandoned on July 6, 1994.

Since this petition was filed more than one year after the date on which the application became abandoned, the petition is barred; 37 CFR 1.137(b).

In view of the above, the present petition is dismissed as moot. Therefore, the petition fee of \$605 is unnecessary. Petitioner may request a refund of \$605 by writing to the Office of Finance. A copy of this decision should be enclosed with the request.

Petitioner may have relief under the provisions of 37 CFR 1.137(a). However, in view of the fact that this case has been abandoned for an inordinate period of time, petitioner must show diligence between the time of becoming aware of the abandonment of the above-identified application and the filing of a petition to revive. Note In re Application of S, 8 USPQ2d 1630.

The application file does not indicate a change of address has been filed in this case, although the address given on a paper filed differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

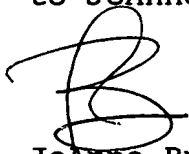
The statement that the "abandonment was unintentional" does not comply with 37 CFR 1.137(b).¹ However, the statement presented will be accepted and construed as meaning that the "delay was unintentional." If this is an incorrect interpretation in view of the new rules, petitioner is required to provide a statement to that effect.

Further correspondence with respect to this matter should be addressed as follows:

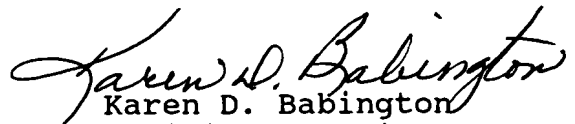
By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to JoAnne Burke of the Office of Petitions at (703) 305-9285



JoAnne Burke
Legal Instruments Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects



Karen D. Babington
Petitions Examiner

¹ Effective September 20, 1993. See "Changes in Procedures for Revival of Patent Applications and Reinstatement of Patents," published at 1154 Official Gazette 35 (September 14, 1993).